

EXHIBIT E

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1
2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK
4 Index No.: 14-cv-4702 (LDW) (ARL)
-----x

5 RAMON MORALES,

6 Plaintiff,

7 -against-

8 5 BROTHERS RESTAURANT, INC., DENNIS
9 D'ONOFRIO, and OLD TOWN INC.,

10 Defendants.
11 -----x
12

13 32 Broadway, Suite 601
14 New York, New York 10004

15 July 8, 2015
16 2:00 p.m.

17
18 EXAMINATION BEFORE TRIAL OF
19 RAMON MORALES, the Plaintiff herein, taken
20 by the Defendants, held at the
21 above-mentioned time and place before
22 ANNMARIE OAKLEY, a Notary Public of the
23 State of New York.
24
25

<p style="text-align: right;">Page 2</p> <p>1 2 APPEARANCES 3 4 JOSEPH & KIRSCHENBAUM, LLP 5 Attorneys for Plaintiff 6 32 Broadway 7 Suite 601 8 New York, New York 10004 9 10 BY: LAURA REZNICK, ESQ. 11 D. MAIMON KIRSCHENBAUM 12 WICKMAN, BRESSLER & GEASA, P.C. 13 Attorneys for Defendant 14 13015 Main Road 15 PO Box 1424 16 Mattituck, New York 11952 17 BY: ERIC J. BRESSLER, ESQ. 18 19 ALSO PRESENT: Debra Torres, Paralegal 20 Lillian Bond 21 Interpreter, Elite 22 23 * * * 24 25</p>	<p style="text-align: right;">Page 4</p> <p>1 2 LILLIAN BOND was duly sworn to accurately 3 translate from English into Spanish and from 4 Spanish into English. 5 RAMON MORALES, the Plaintiff herein, having 6 first been duly sworn by a Notary Public of 7 the State of New York, was examined and 8 testified as follows: 9 EXAMINATION BY MR. BRESSLER: 10 Q Would you state your name for the 11 record, please. 12 A. Ramon Morales. 13 Q Would you state your address for 14 the record, please. 15 A 58 Piedmont Drive, Port 16 Jefferson, New York 11776. 17 Q. Good afternoon, Mr. Morales, my 18 name is Eric Bressler. I'm the attorney for 19 the defendants in this action that you have 20 brought. I will be asking you some 21 questions this afternoon. Have you ever 22 been involved in a lawsuit before? 23 A. No. 24 Q. Have you ever been involved in a 25 deposition before?</p>
<p style="text-align: right;">Page 3</p> <p>1 2 3 4 STIPULATIONS 5 6 IT IS HEREBY stipulated and agreed by 7 and among counsel for the respective parties 8 hereto, that the sealing and certification 9 of the within deposition shall be and the 10 same hereby waived. 11 IT IS FURTHER STIPULATED AND AGREED 12 that all objections, except to the form of 13 the question, shall be reserved to the time 14 of trial; 15 IT IS FURTHER STIPULATED AND AGREED 16 that the within deposition may be signed 17 before any Notary Public with the same force 18 and effect as if signed and sworn to before 19 the court. 20 IT IS FURTHER STIPULATED AND AGREED 21 that counsel representing the witness 22 examined herein shall be furnished with a 23 copy of the within deposition without 24 charge. 25</p>	<p style="text-align: right;">Page 5</p> <p>1 R. MORALES 2 A. No. 3 Q. Have you discussed your testimony 4 here today with anyone? 5 A. Yes. 6 Q. With whom did you discuss it with? 7 A. My lawyer. 8 Q. Anyone else? 9 A. No. 10 Q. Now, I'm going to be asking you a 11 series of questions. 12 A. Okay. 13 Q. Is there any reason why you will 14 not be able to answer my questions this 15 afternoon, that you know of? 16 A. I don't think so. 17 Q. Have you had any alcoholic 18 beverages to drink today prior to this 19 deposition? 20 A. No. 21 Q. Are you taking any drugs which 22 would affect your ability to understand any 23 of the questions put to you? 24 A. No. No. 25 Q. Are you suffering from any disease</p>

2 (Pages 2 - 5)

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1 R. MORALES
2 or condition which would affect your ability
3 to understand any of my questions?
4 A. No.
5 Q. How many languages do you speak?
6 A. Just one.
7 Q. Can you understand English?
8 A. Not much.
9 Q. Some?
10 A. No -- well, that's why I asked for
11 an interpreter, because I don't understand.
12 Q. I asked: Do you understand some
13 English?
14 A. A little bit.
15 Q. Can you read any English?
16 A. No.
17 Q. None?
18 A. Nothing. Nothing.
19 Q. Have you ever attended any
20 educational institution?
21 A. No. I came here to work only.
22 Q. That's not my question. Have you
23 ever gone to school?
24 A. No. No.
25 Q. No where?

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1 R. MORALES
2 A. No. No place. Nope.
3 Q. Now, you stated you came here to
4 work.
5 A. Exactly.
6 Q. Where did you come from?
7 A. Dominican Republic.
8 Q. When did you come here to work
9 from the Dominican Republic?
10 A. Approximately fourteen years.
11 Q. Fourteen years ago?
12 A. Yes.
13 Q. When you first came here, and by
14 here I mean the United States, to work from
15 the Dominican Republic did you find
16 employment?
17 A. Yes.
18 Q. What employment did you first
19 engage in upon arriving here?
20 A. It's in Stonybrook. It was a
21 cafeteria. That's where I worked.
22 MS. TORRES: He said it was in a
23 university.
24 Q. What was your job in the cafeteria
25 at Stonybrook?

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1 R. MORALES
2 A. I did deliveries.
3 Q. What was the name of the business
4 that ran the cafeteria in Stonybrook for
5 which you did deliveries?
6 A. Edge Cafeteria. It belongs to the
7 city or county of Stonybrook.
8 MS. TORRES: The university.
9 Q. What was the name?
10 A. Edge Cafeteria.
11 Q. How long did you work as a
12 delivery person at the cafeteria?
13 A. Approximately four years.
14 Q. Did there come a time that you
15 left the employment of the cafeteria?
16 A. Yes.
17 Q. What was the reason for you
18 leaving?
19 A. I had an operation on my back.
20 The deliveries were very heavy.
21 Q. Did there come a time after
22 leaving the cafeteria that you obtained
23 other employment?
24 A. Yes. Albar.
25 Q. What is that?

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1 R. MORALES
2 A. A restaurant.
3 Q. Where was it located?
4 A. Right there, 47, that's it.
5 Q. 47 what?
6 A. I don't remember.
7 Q. What town was it in?
8 A. Port Jefferson Station, Long
9 Island.
10 Q. What was the business of Albar?
11 A. It's a restaurant.
12 Q. What year did you first start
13 working at the restaurant?
14 A. I don't remember.
15 Q. How long were you out of work as a
16 result of your operation?
17 A. About four years, approximately,
18 without being able to work.
19 Q. What was your job at the
20 restaurant?
21 MS. REZNICK: Objection as to
22 form.
23 A. Dishwasher.
24 MS. REZNICK: Objection as to
25 form. Can you clarify which restaurant

3 (Pages 6 - 9)

<p style="text-align: right;">Page 10</p> <p>1 R. MORALES</p> <p>2 you're talking about?</p> <p>3 MR. BRESSLER: The witness has</p> <p>4 answered the question.</p> <p>5 Q. How long were you a dishwasher at</p> <p>6 this Albar?</p> <p>7 A. I don't remember.</p> <p>8 Q. Was it more than a year?</p> <p>9 A. Yes.</p> <p>10 Q. Was it more than two years?</p> <p>11 A. I don't know. I don't remember.</p> <p>12 Q. Why did you leave the job as a</p> <p>13 dishwasher at Albar?</p> <p>14 A. Because I wanted a better</p> <p>15 position.</p> <p>16 Q. Upon leaving that dishwasher job</p> <p>17 at Albar, did you obtain employment</p> <p>18 elsewhere?</p> <p>19 A. Yes. After that I found I could</p> <p>20 work at Old Town Pizza.</p> <p>21 Q. What year did you find employment</p> <p>22 with Old Town Pizza?</p> <p>23 A. 2011.</p> <p>24 Q. Where was Old Town Pizza located?</p> <p>25 A. Port Jefferson but on a different</p>	<p style="text-align: right;">Page 12</p> <p>1 R. MORALES</p> <p>2 Q. Did you always work at the</p> <p>3 pizzeria location in Port Jefferson Station?</p> <p>4 A. Yes.</p> <p>5 Q. When you first talked to someone</p> <p>6 at Old Town Pizza about being hired, whom</p> <p>7 did you talk to?</p> <p>8 A. I asked somebody by the name of</p> <p>9 Mario. I don't know his last name, but he</p> <p>10 gave me a job.</p> <p>11 Q. What did Mario tell you about the</p> <p>12 terms and conditions of the job?</p> <p>13 A. He said to me, "First you're going</p> <p>14 to wash dishes." That's what he said.</p> <p>15 Q. Did you have a discussion about</p> <p>16 your rate of pay with Mario?</p> <p>17 A. No.</p> <p>18 Q. Did you have a discussion with</p> <p>19 anyone at Old Town Pizza about your rate of</p> <p>20 pay?</p> <p>21 A. There was a minimum that they had</p> <p>22 to pay. I thought it was \$4.25 an hour, but</p> <p>23 I started.</p> <p>24 MR. BRESSLER: What did the</p> <p>25 witness say? Would you ask him again,</p>
<p style="text-align: right;">Page 11</p> <p>1 R. MORALES</p> <p>2 road.</p> <p>3 Q. In what capacity were you hired at</p> <p>4 Old Town Pizza?</p> <p>5 A. First when I started there I would</p> <p>6 wash up. I was a dishwasher when I first</p> <p>7 started.</p> <p>8 Q. How long were you a dishwasher at</p> <p>9 Old Town Pizza?</p> <p>10 A. Approximately six months doing</p> <p>11 that, but then I passed on to the prep.</p> <p>12 Q. How long did you work in prep at</p> <p>13 Old Town Pizza?</p> <p>14 A. Approximately two years.</p> <p>15 Q. When did you last work at Old Town</p> <p>16 Pizza?</p> <p>17 A. I don't remember.</p> <p>18 Q. What year?</p> <p>19 A. I don't remember. It's been about</p> <p>20 a year since I left that place.</p> <p>21 Q. During the time that you worked</p> <p>22 for Old Town Pizza, what location did you</p> <p>23 work at?</p> <p>24 A. I did the preparation for the</p> <p>25 pizza.</p>	<p style="text-align: right;">Page 13</p> <p>1 R. MORALES</p> <p>2 please.</p> <p>3 A. The minimum was \$425 a week for</p> <p>4 six days.</p> <p>5 Q. \$425?</p> <p>6 A. Yes.</p> <p>7 Q. Who told you that?</p> <p>8 A. Mario. The same one that spoke to</p> <p>9 me. Mario.</p> <p>10 Q. Did you ever speak to Dennis</p> <p>11 D'Onofrio?</p> <p>12 A. That was the boss. That was my</p> <p>13 boss.</p> <p>14 Q. I didn't ask that. I asked: Did</p> <p>15 you ever speak with him?</p> <p>16 A. Of course. Of course, we would</p> <p>17 speak.</p> <p>18 Q. When was the first time you spoke</p> <p>19 to Dennis D'Onofrio?</p> <p>20 A. I don't remember.</p> <p>21 Q. Did you ever speak to Dennis about</p> <p>22 your compensation?</p> <p>23 A. Yes. He said, "Later we'll</p> <p>24 increase you."</p> <p>25 Q. When did that conversation take</p>

4 (Pages 10 - 13)

<p style="text-align: right;">Page 14</p> <p>1 R. MORALES</p> <p>2 place?</p> <p>3 A. I don't remember.</p> <p>4 Q. Was it before or after you were</p> <p>5 hired?</p> <p>6 A. It was after I already started</p> <p>7 working.</p> <p>8 Q. While you worked at Old Town</p> <p>9 Pizza, was there someone who supervised you?</p> <p>10 A. Well, just people there in the</p> <p>11 pizzeria. There was Ricardo Rodriguez and</p> <p>12 there was somebody names Amedeo.</p> <p>13 Q. What position did those people</p> <p>14 hold?</p> <p>15 A. They were supervisors.</p> <p>16 Q. At the time that you started</p> <p>17 working at the pizzeria, how much were you</p> <p>18 being paid?</p> <p>19 A. \$425 for six days.</p> <p>20 Q. Did there come a time when you</p> <p>21 received an increase in pay?</p> <p>22 A. Yes. That was when I went over to</p> <p>23 the prep.</p> <p>24 Q. How much did your pay go up?</p> <p>25 A. \$475.</p>	<p style="text-align: right;">Page 16</p> <p>1 R. MORALES</p> <p>2 would look at me.</p> <p>3 Q. When you arrived at work, did you</p> <p>4 have to make an entry to a point of sale</p> <p>5 system noting your time of arrival?</p> <p>6 A. No, because I didn't have to.</p> <p>7 There was no system.</p> <p>8 Q. When you left, at the end of the</p> <p>9 day, did you have to checkout with any of</p> <p>10 your supervisors?</p> <p>11 A. Yes, of course, and we would leave</p> <p>12 together.</p> <p>13 Q. Did you have to log the time you</p> <p>14 left into any point of sale or other</p> <p>15 electronic system?</p> <p>16 A. The supervisor would note that</p> <p>17 down.</p> <p>18 Q. Where would the supervisor note</p> <p>19 that down?</p> <p>20 A. On the computer.</p> <p>21 Q. Would your supervisor make a note</p> <p>22 on the computer every time you arrived in</p> <p>23 the morning?</p> <p>24 A. Exactly. Exactly.</p> <p>25 Q. Did you see the supervisors making</p>
<p style="text-align: right;">Page 15</p> <p>1 R. MORALES</p> <p>2 Q. Did you receive the \$425 before</p> <p>3 you went to prep, each week?</p> <p>4 A. Yes, every six days. Yes.</p> <p>5 Q. After you went to prep, did you</p> <p>6 receive \$475 each week.</p> <p>7 A. Yes, every six days.</p> <p>8 Q. How many hours per day did you</p> <p>9 work while you were a dishwasher?</p> <p>10 A. I worked from 10 to 10.</p> <p>11 Q. How many hours did you work while</p> <p>12 you were in prep?</p> <p>13 A. It was six days, it was 10 to 10</p> <p>14 for the six days, 72 per week.</p> <p>15 Q. Did you keep track of your hours</p> <p>16 in writing?</p> <p>17 A. No.</p> <p>18 Q. Each morning when you came to the</p> <p>19 restaurant did you check in with a person?</p> <p>20 A. I didn't have to, the same one I</p> <p>21 worked with was the supervisor or the boss.</p> <p>22 Q. My question was: When you</p> <p>23 arrived, did you check in with one of those</p> <p>24 bosses or supervisors?</p> <p>25 A. Well, they would see me. They</p>	<p style="text-align: right;">Page 17</p> <p>1 R. MORALES</p> <p>2 that entry when you would arrive in the</p> <p>3 morning?</p> <p>4 A. I don't know what he did. He had</p> <p>5 his computer.</p> <p>6 Q. When you came to work for the</p> <p>7 restaurant, Old Town Pizza, were you given a</p> <p>8 code or number such that you could note your</p> <p>9 arrival and your departure from work into</p> <p>10 the computer or point of sale system?</p> <p>11 A. No. When I worked there, there</p> <p>12 was no system like that. There never was</p> <p>13 when I worked there.</p> <p>14 Q. As a result of working 72 hours as</p> <p>15 a dishwasher, how much do you claim you were</p> <p>16 entitled to per week?</p> <p>17 MR. KIRSCHENBAUM: Objection. It</p> <p>18 calls for a legal conclusion.</p> <p>19 MR. BRESSLER: I just want to know</p> <p>20 what he thinks.</p> <p>21 MR. KIRSCHENBAUM: I'm just</p> <p>22 objecting.</p> <p>23 MR. BRESSLER: He can answer if he</p> <p>24 can.</p> <p>25 A. As a dishwasher?</p>

5 (Pages 14 - 17)

<p style="text-align: right;">Page 18</p> <p>1 R. MORALES</p> <p>2 MR. KIRSCHENBAUM: Please,</p> <p>3 translate my objection.</p> <p>4 Q. Yes.</p> <p>5 MR. BRESSLER: Your objection is</p> <p>6 in English.</p> <p>7 MR. KIRSCHENBAUM: I'm asking her</p> <p>8 to translate it.</p> <p>9 A. I don't know.</p> <p>10 Q. You don't know?</p> <p>11 MR. KIRSCHENBAUM: Objection asked</p> <p>12 and answered.</p> <p>13 Q. The same question with respect to</p> <p>14 when you were in prep working the 72 hours</p> <p>15 that you worked, what is it that you claim</p> <p>16 that you were entitled to each week for that</p> <p>17 work?</p> <p>18 MR. KIRSCHENBAUM: Objection.</p> <p>19 Calls for a legal conclusion.</p> <p>20 Please, translate my objection.</p> <p>21 A. I don't know that. I don't know</p> <p>22 that either.</p> <p>23 Q. For every day that you worked at</p> <p>24 the pizzeria, did you work the exact same</p> <p>25 hours every day?</p>	<p style="text-align: right;">Page 20</p> <p>1 R. MORALES</p> <p>2 problem.</p> <p>3 Q. Now, did you understand at any</p> <p>4 time what the rate of pay per hour was for</p> <p>5 working at Old Town Pizza?</p> <p>6 A. I'm going to repeat. They don't</p> <p>7 pay by the hour.</p> <p>8 Q. Were you ever asked to sign a</p> <p>9 document that reflected how much you were</p> <p>10 going to be paid per hour?</p> <p>11 A. No.</p> <p>12 Q. Did you ever sign a document that</p> <p>13 reflected how much you were going to be paid</p> <p>14 per hour for working at Old Town Pizza?</p> <p>15 A. No. No.</p> <p>16 MR. BRESSLER: Counselor, is it</p> <p>17 okay if I use the exhibits that were marked</p> <p>18 in this mornings deposition, or would you</p> <p>19 like them remarked.</p> <p>20 MS. REZNICK: It's fine.</p> <p>21 MR. BRESSLER: We can use the ones</p> <p>22 that are marked.</p> <p>23 MS. REZNICK: Yes.</p> <p>24 MR. KIRSCHENBAUM: Before you</p> <p>25 present that to the witness, why don't we</p>
<p style="text-align: right;">Page 19</p> <p>1 R. MORALES</p> <p>2 A. Yes.</p> <p>3 Q. Did you ever have a discussion or</p> <p>4 conversation with anyone at Old Town Pizza</p> <p>5 about what your hourly rate pay was to be?</p> <p>6 A. No.</p> <p>7 Q. Did you ever see any writing that</p> <p>8 described what your hourly rate of pay was</p> <p>9 to be at old Town pizza?</p> <p>10 A. No. They pay by the hour.</p> <p>11 MR. KIRSCHENBAUM: You got your</p> <p>12 answer. And I want to clarify, there's a</p> <p>13 Spanish speaker in the room who heard that</p> <p>14 what my client testified to was, "They do</p> <p>15 not pay by the hour."</p> <p>16 MR. BRESSLER: We don't recognize</p> <p>17 anyone other than the interpreter.</p> <p>18 MR. KIRSCHENBAUM: I am just</p> <p>19 stating for the record.</p> <p>20 MR. BRESSLER: Don't state for the</p> <p>21 record --</p> <p>22 MR. KIRSCHENBAUM: If you have a</p> <p>23 problem with my objection, there's a</p> <p>24 telephone and you can call the judge.</p> <p>25 MR. BRESSLER: No. I have no</p>	<p style="text-align: right;">Page 21</p> <p>1 R. MORALES</p> <p>2 just take a quick break.</p> <p>3 MR. BRESSLER: We've only been at</p> <p>4 this for 30 minutes.</p> <p>5 MR. KIRSCHENBAUM: I would like a</p> <p>6 moment with my client.</p> <p>7 MR. BRESSLER: I don't want the</p> <p>8 witness --</p> <p>9 MR. KIRSCHENBAUM: You don't have</p> <p>10 a choice, and we're allowed to confer with</p> <p>11 our client.</p> <p>12 MR. BRESSLER: The purpose of this</p> <p>13 is to -- well, never mind. It's obvious</p> <p>14 what the purpose is. The witness has</p> <p>15 testified and you --</p> <p>16 MR. KIRSCHENBAUM: Now you're</p> <p>17 testifying.</p> <p>18 MR. BRESSLER: The witness has</p> <p>19 testified to what he's testified to.</p> <p>20 MR. KIRSCHENBAUM: Now you would</p> <p>21 like to testify?</p> <p>22 MR. BRESSLER: Either you're going</p> <p>23 to consult with your client or I will put</p> <p>24 the next question.</p> <p>25 (A short break was taken.)</p>

6 (Pages 18 - 21)

<p style="text-align: right;">Page 22</p> <p>1 R. MORALES</p> <p>2 MR. BRESSLER: Let the record</p> <p>3 reflect that we're back after counsel</p> <p>4 conferred with his client.</p> <p>5 MS. REZNICK: Again, objection to</p> <p>6 counsel testifying.</p> <p>7 MR. BRESSLER: Let me state for</p> <p>8 the record, we all have had difficulty here</p> <p>9 with the names of the restaurant and the</p> <p>10 prior place of employment. I'm going to ask</p> <p>11 the reporter to leave a space upon the</p> <p>12 completion of the transcript for those names</p> <p>13 to be filled in as correctly as they can be.</p> <p>14 INSERT _____</p> <p>15 INSERT _____</p> <p>16 Q. Did there come a time when your</p> <p>17 employment with Old Town Pizza came to an</p> <p>18 end?</p> <p>19 A. Yes.</p> <p>20 Q. When did it come to an end?</p> <p>21 A. I don't remember actually but</p> <p>22 about a year ago.</p> <p>23 Q. Did you leave voluntarily or was</p> <p>24 your employment terminated by Old Town</p> <p>25 Pizza?</p>	<p style="text-align: right;">Page 24</p> <p>1 R. MORALES</p> <p>2 A. It is my signature, but I don't</p> <p>3 remember, but I signed it. What time, what</p> <p>4 hour, I don't know what time.</p> <p>5 Q. I'm showing --</p> <p>6 MS. REZNICK: I'm sorry. May I</p> <p>7 have the copy.</p> <p>8 Q. I'm showing you Plaintiff's</p> <p>9 Exhibit 5, from the deposition this morning,</p> <p>10 dated 7/8/15. I ask you to take a look at</p> <p>11 it.</p> <p>12 MS. REZNICK: Just to clarify, is</p> <p>13 that the document Bates stamped number 110?</p> <p>14 MR. BRESSLER: Yes.</p> <p>15 Q. Do you recognize it?</p> <p>16 A. No.</p> <p>17 Q. Does it bear your signature?</p> <p>18 A. It has a signature, but I don't</p> <p>19 know if I signed it. I don't remember</p> <p>20 having signed this particular sheet which is</p> <p>21 Exhibit 5, because over here it's not the</p> <p>22 right hours. I worked from 10 to 10.</p> <p>23 Q. So is it your testimony that you</p> <p>24 don't know whether Plaintiff's 5 contains</p> <p>25 your signature?</p>
<p style="text-align: right;">Page 23</p> <p>1 R. MORALES</p> <p>2 A. They let me go because I was ill.</p> <p>3 I was sick.</p> <p>4 Q. Who was the person who advised you</p> <p>5 on behalf of Old Town Pizza that you were</p> <p>6 being terminated?</p> <p>7 A. Dennis called Ricardo to let me</p> <p>8 know that I should not go back.</p> <p>9 Q. Whom did you talk to? Was it</p> <p>10 Ricardo?</p> <p>11 A. Yes, Ricardo.</p> <p>12 Q. Did you talk to Dennis D'Onofrio</p> <p>13 at that time?</p> <p>14 A. No.</p> <p>15 Q. I'm showing you a document that's</p> <p>16 been marked Plaintiff's Exhibit 4, used at a</p> <p>17 deposition today, 7/8/15, and ask you if you</p> <p>18 recognize it.</p> <p>19 A. I recognize this.</p> <p>20 Q. That's my question, do you</p> <p>21 recognize the document?</p> <p>22 A. What I recognize is, this is my</p> <p>23 signature.</p> <p>24 Q. Where it says "Ramon Morales"</p> <p>25 that's your signature?</p>	<p style="text-align: right;">Page 25</p> <p>1 R. MORALES</p> <p>2 A. No, because I don't recall having</p> <p>3 signed this sheet because for six days I</p> <p>4 would work from 10 to 10.</p> <p>5 Q. Does it look like your signature?</p> <p>6 A. You know it could be, but I don't</p> <p>7 know.</p> <p>8 Q. Do you understand that you are</p> <p>9 suing Old Town Pizza and Dennis D'Onofrio?</p> <p>10 A. Yes.</p> <p>11 Q. Do you know what Old Town Inc. is?</p> <p>12 A. That I don't know.</p> <p>13 Q. Do you know what Five Brothers</p> <p>14 Restaurant Inc. is?</p> <p>15 A. No. I don't know that either.</p> <p>16 Q. Did there ever come a time when</p> <p>17 you had an opportunity to review a document</p> <p>18 known as a "complaint" in this action?</p> <p>19 A. They never gave me that.</p> <p>20 Q. By a complaint I mean, the</p> <p>21 statement that gets filed with the court</p> <p>22 that sets forth what your claim is.</p> <p>23 MR. KIRSCHENBAUM: I'm just going</p> <p>24 to clarify before this question is answered.</p> <p>25 I'm going to ask the translator to translate</p>

7 (Pages 22 - 25)

<p style="text-align: right;">Page 26</p> <p>1 R. MORALES</p> <p>2 it for the client. He's not required to</p> <p>3 divulge or to answer that question. Any</p> <p>4 communication that his attorneys had or did</p> <p>5 not have with him. He doesn't need to</p> <p>6 discuss any level of communication that he</p> <p>7 had with his attorneys.</p> <p>8 MR. BRESSLER: Don't make</p> <p>9 statements on my record. I asked a simple</p> <p>10 question, did he see the complaint.</p> <p>11 MR. KIRSCHENBAUM: Could you,</p> <p>12 please, translate my statement.</p> <p>13 (The requested portion was read</p> <p>14 back by the Court Reporter.)</p> <p>15 Q. So my question is: Did you see at</p> <p>16 any time a document that had been filed or</p> <p>17 was going to be filed with the court?</p> <p>18 MR. KIRSCHENBAUM: That question</p> <p>19 was already answered.</p> <p>20 A. I did not see it. I did not see</p> <p>21 it.</p> <p>22 Q. You testified earlier that while</p> <p>23 you were a dishwasher you were paid \$425 a</p> <p>24 week.</p> <p>25 A. Yes. Yes.</p>	<p style="text-align: right;">Page 28</p> <p>1 R. MORALES</p> <p>2 money you were being paid for your work?</p> <p>3 A. Yes. Well, that's why he gave me</p> <p>4 more, \$475 for prep.</p> <p>5 Q. Except for what you just told me</p> <p>6 about, did you talk to Dennis in 2012 and</p> <p>7 make a complaint about the amount of money</p> <p>8 you were receiving for your work, except</p> <p>9 what you just told me?</p> <p>10 A. No.</p> <p>11 Q. In 2013, did you ever make a</p> <p>12 complaint to Dennis D'Onofrio about the</p> <p>13 amount of money that you were receiving for</p> <p>14 your work?</p> <p>15 A. No.</p> <p>16 Q. In 2014 did you ever make a</p> <p>17 complaint to Dennis D'Onofrio about the</p> <p>18 amount of money that you were being paid for</p> <p>19 your work?</p> <p>20 A. No.</p> <p>21 Q. When did you first come to believe</p> <p>22 that you weren't paid enough for your work?</p> <p>23 MR. KIRSCHENBAUM: Objection.</p> <p>24 A. I don't remember.</p> <p>25 Q. Do you remember what year it was?</p>
<p style="text-align: right;">Page 27</p> <p>1 R. MORALES</p> <p>2 Q. Was there ever a time while you</p> <p>3 were a dishwasher that you were paid only</p> <p>4 \$400 dollars a week?</p> <p>5 A. No.</p> <p>6 Q. You testified before that as a</p> <p>7 prep man you were paid \$475 each week you</p> <p>8 worked.</p> <p>9 A. Yes, when I went to prep. Yes.</p> <p>10 Q. Was there ever a time while you</p> <p>11 were a prep man that you were paid \$450 a</p> <p>12 week?</p> <p>13 A. No. No.</p> <p>14 Q. In 2011, did you make a complaint</p> <p>15 to Dennis D'Onofrio about the amount of</p> <p>16 compensation you were receiving for your</p> <p>17 work?</p> <p>18 A. No.</p> <p>19 Q. In 2012 did you make any complaint</p> <p>20 to Dennis D'Onofrio about the compensation</p> <p>21 you were receiving for your work?</p> <p>22 A. Yes. I was earning the same when</p> <p>23 I was doing prep at that time.</p> <p>24 Q. In 2012, did you make a complaint</p> <p>25 to Dennis D'Onofrio about the amount of</p>	<p style="text-align: right;">Page 29</p> <p>1 R. MORALES</p> <p>2 A. No, I don't remember.</p> <p>3 Q. Do you remember any of the</p> <p>4 circumstances surrounding your determination</p> <p>5 for the first time that you had not been</p> <p>6 paid sufficiently for your work?</p> <p>7 A. I don't remember. I thought</p> <p>8 everything was all right. I don't remember.</p> <p>9 Q. Did you maintain any books and</p> <p>10 records or other writing with respect to</p> <p>11 your employment at Old Town Pizza?</p> <p>12 A. No. No.</p> <p>13 Q. Did you ever receive any paperwork</p> <p>14 from Old Town Pizza with respect to</p> <p>15 compensation that you received from them?</p> <p>16 A. No.</p> <p>17 Q. During the time that you say you</p> <p>18 worked for Old Town Pizza, did you file</p> <p>19 federal income tax returns?</p> <p>20 MR. KIRSCHENBAUM: Objection. I'm</p> <p>21 going to instruct my client not to answer</p> <p>22 the question.</p> <p>23 MR. BRESSLER: The basis?</p> <p>24 MR. KIRSCHENBAUM: That</p> <p>25 information is presumed non-discoverable</p>

8 (Pages 26 - 29)

<p style="text-align: right;">Page 30</p> <p>1 R. MORALES</p> <p>2 under case law.</p> <p>3 MR. BRESSLER: Well, we'll get a</p> <p>4 ruling from the magistrate and bring him</p> <p>5 back if we have to.</p> <p>6 MR. KIRSCHENBAUM: You don't have</p> <p>7 to bring him back. Call the magistrate</p> <p>8 right now.</p> <p>9 MR. BRESSLER: I'm not calling the</p> <p>10 magistrate, and we'll see if we need to</p> <p>11 bring the client back.</p> <p>12 MR. KIRSCHENBAUM: You're going to</p> <p>13 lose your opportunity because you're free to</p> <p>14 call the magistrate right now.</p> <p>15 MR. BRESSLER: I'm not going to</p> <p>16 call the magistrate in the middle of my</p> <p>17 examination.</p> <p>18 MR. KIRSCHENBAUM: At your own</p> <p>19 peril.</p> <p>20 MR. BRESSLER: Not at my peril.</p> <p>21 Q. Did you keep any records with</p> <p>22 respect to the hours that you work at Old</p> <p>23 Town Pizza?</p> <p>24 MR. KIRSCHENBAUM: Objection.</p> <p>25 Asked and answered.</p>	<p style="text-align: right;">Page 32</p> <p>1 R. MORALES</p> <p>2 Q. Just two subject areas that need</p> <p>3 to be broken down, but just to clarify from</p> <p>4 before, when you said you never went to</p> <p>5 school did you mean that you never went to</p> <p>6 any school anywhere?</p> <p>7 MR. BRESSLER: I object to the</p> <p>8 form of the question.</p> <p>9 A. In Santo Domingo I did. Yes, I</p> <p>10 went up to the seventh grade.</p> <p>11 Q. Was there ever any day you worked</p> <p>12 at Old Town that you came in a time other</p> <p>13 than 10 a.m.?</p> <p>14 A. Well, one day I went to the</p> <p>15 doctor, and I got there later, and I put</p> <p>16 somebody in my place, in my corner there to</p> <p>17 cover me, to cover for me.</p> <p>18 MS. REZNICK: That's all I have.</p> <p>19 MR. BRESSLER: No more questions.</p> <p>20</p> <p>21 <u>RAMON MORALES</u></p> <p>22 Subscribed and sworn to before me</p> <p>23 this ____ day of ____, 2015.</p> <p>24</p> <p>25 <u>NOTARY PUBLIC</u></p>
<p style="text-align: right;">Page 31</p> <p>1 R. MORALES</p> <p>2 A. No. No, but I do know that I</p> <p>3 worked from 10 to 10.</p> <p>4 Q. Did you work everyday 10 to 10</p> <p>5 while you were employed there, without fail?</p> <p>6 A. Yes. Yes, everyday.</p> <p>7 Q. Did you ever miss a day of work</p> <p>8 during the term of your employment at Old</p> <p>9 Town Pizza?</p> <p>10 A. Yeah, maybe one or one day or so,</p> <p>11 maybe one, some days, maybe.</p> <p>12 Q. During all the time that you</p> <p>13 worked at Old Town Pizza, did you ever show</p> <p>14 up later than 10 in the morning?</p> <p>15 A. No. Never.</p> <p>16 Q. During all the time that you</p> <p>17 worked at Old Town Pizza, did you ever leave</p> <p>18 prior to 10 o'clock at night?</p> <p>19 A. No. No, my hours were 10 to 10.</p> <p>20 MR. BRESSLER: I have no more</p> <p>21 questions.</p> <p>22 MS. REZNICK: Can we take a five</p> <p>23 minute break, please.</p> <p>24 (A short break was taken.)</p> <p>25 CROSS EXAMINATION BY MS. REZNICK:</p>	<p style="text-align: right;">Page 33</p> <p>1</p> <p>2 INDEX</p> <p>3 DIRECT CROSS</p> <p>4 Mr. Bressler 4</p> <p>5 Ms. Reznick 31</p> <p>6</p> <p>7</p> <p>8 INSERTIONS</p> <p>9 DESCRIPTION PAGE LINE</p> <p>10 Names of previous 22 14</p> <p>11 employers</p> <p>12</p> <p>13</p> <p>14 MARKED FOR A RULING</p> <p>15 PAGE LINE</p> <p>16 29 17</p> <p>17</p> <p>18 * * *</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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1

2 CERTIFICATE

3

4 I, ANNMARIE OAKLEY, a Shorthand
5 Reporter and Notary Public within and for
6 the State of New York, do hereby certify:

7 THAT RAMON MORALES, the witness
8 whose deposition is hereinbefore set forth,
9 was duly sworn by me, and that such
10 deposition is a true record of the testimony
11 given by such witness.

12 I further certify that I am not
13 related to any of the parties to this action
14 by blood or by marriage and that I am in no
15 way interested in the outcome of this
16 matter.

17 IN WITNESS THEREOF, I have
18 hereunto set my hand this 21st day of July,
19 2015.

20

21

Annmarie Oakley

22

ANNMARIE OAKLEY

23

24

25

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1

2 ERRATA SHEET

3 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

4 NAME OF CASE: RAMON MORALES VS. 5
BROTHERS RESTAURANT, INC., DENNIS D'ONOFRIO,
5 AND OLD TOWN INC.

DATE OF DEPOSITION: JULY 8, 2015

6 NAME OF DEPONENT: RAMON MORALES

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RAMON MORALES

22

SUBSCRIBED AND SWORN TO BEFORE ME

23 THIS ____ DAY OF _____,
2015.

24

25

NOTARY PUBLIC

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[& - complaint]

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and
(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE ABOVE RULES ARE CURRENT AS OF SEPTEMBER 1, 2014. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.